

REMARKS

Claims 1-31 are currently pending. Claims 32-41 are new. No new matter is added. Claims 1-31 currently stand rejected. Claims 1 and 28 are rejected under 35 U.S.C. §112, second paragraph. Claims 1-5, 8-10 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,027,468 to Pick (hereinafter referred to as "Pick"). Claims 19-23, 25, 30-31 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,836,902 to Gray (hereinafter referred to as "Gray"). Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pick in view of U.S. Patent No. 6,282,816 to Rosendahl (hereinafter referred to as "Rosendahl"). Claims 7 and 11-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Pick. Claims 13-18, 26-28, and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Pick. Claim 24 is rejected under 35 U.S.C. §102(b) as anticipated by Gray, or in the alternative, under 35 U.S.C. §103(a) as obvious over Gray. Applicant respectfully traverses the rejections in view of the remarks below and respectfully requests reconsideration.

Claims 10, 19, 30, and 31 are currently amended to more particularly point out the claimed invention.

Claims 1, 11-12, 13, 15-16, 21-22, 25, 26, 27, and 29 are objected to because the claims include terms which the Examiner finds to be indefinite or to lack proper antecedent basis. Claims 1, 11-12, 13, 15-16, 21-22, 25, 26, 27, and 29 have been amended to overcome this objection.

The drawings are objected to under 37 C.F.R. 1.83(a), for allegedly not showing every feature of the invention specified in the claims. Applicant respectfully traverses this rejection. Specifically, the Examiner states that the "inflatable air cell", the "means for communication", and the "protruding region" must be shown. Applicant submits that all these features are currently shown in the figures and described in the description of the figures. The "inflatable air cell 40" is outlined in Figure 6, and described in Paragraph 31. The "means for communication 44" is also shown in Figure 6, and described in Paragraphs 31 and 32. Additionally, "protruding regions 50, 52" are shown in Figures 5 and 6, and described in Paragraph 32.

With respect to Applicant's claim 1, the claim recites a walking brace for the lower leg of a patient, the walking brace comprising a leg portion adapted to fit substantially around the lower leg of a patient, a rigid sole portion having an upper surface adapted to fit beneath the foot of a patient, and a lower surface, said rigid sole portion having an opening therethrough in the area of the patient's heel, such that no portion of said rigid sole portion is disposed below the patient's heel, and a shock-absorbing sole portion comprising a dual layer of resilient shock-absorbing material disposed along the lower surface of the rigid sole portion, said dual layer of resilient shock-absorbing material having a heel portion extending upwardly through said opening in the rigid sole portion to a height no greater than slightly above an upper surface of said rigid sole portion, said dual layer comprising an upper layer of a relatively softer material and a lower layer of a relatively more durable material, said upper layer being in contact with the patient's heel, said lower layer being in contact with the ground when the patient walks.

Pick describes a walking brace comprising a leg portion, a rigid sole portion 24, a foam cushion 28 positioned on the upper surface 25 of the rigid sole portion 24, and a layer 30 of shock resistant material positioned on the lower surface 27 of the rigid sole portion 24. The Action states that Pick discloses a "dual layer 28, 30 of resilient shock-absorbing material disposed along said bottom surface of said rigid sole portion" (emphasis added). However, as clearly shown in Figure 2 of Pick and described in column 3, lines 65-67, the foam cushion 28 is disposed on the *upper surface* of the rigid sole portion 24, while a single layer 30 is disposed along the *bottom surface* of the rigid sole portion 24.

Applicant's claim 19 recites a walking brace for the lower leg of a patient, the walking brace comprising a leg portion adapted to fit substantially around the lower leg of a patient, and a rigid sole portion adapted to fit beneath the foot of a patient, said leg portion comprising a rigid shell integral with said sole portion, said rigid shell comprising a rear shell member and a front shell member, said rear shell member comprising means for expanding the width thereof.

Gray describes a splint 10B including an inner leg portion 36, an outer leg portion 37, and a bottom sole 42. As shown in Figure 12, Gray's splint has two lateral portions, "an inner leg portion 36" (Fig. 12, col. 5, line 8) which fits around the inner side of a user's leg, and "an outer leg portion 37" (Fig. 12, col. 5, line 8) which fits around the outer side of a user's leg. Gray does not suggest a splint having a front shell member or a splint having a rear shell member as is recited in Applicant's claim 19. The Examiner states that Gray's splint 10B includes "means 52, 53 for expanding the width thereof." However, Gray does not disclose or suggest that pins 52 or holes 53 may be used as means for expanding the width of the splint. Moreover, for Gray's splint 10B, at most only the space between the inner leg portion 36 and the outer leg portion 37 may be expanded; a single portion 36 or 37 of Gray's splint is not *individually* expandable. Gray does not teach or suggest a splint having a portion which may be individually expanded, as is the rear shell member of the brace recited in Applicant's claim 19, and also as recited in Applicant's claim 13.

The Action also states that Gray teaches a "longitudinal slit (figure 12) and longitudinal aligned slit, septa 36,46," as recited in Applicant's claims 14-18, 20-23 and 25. As stated in Column 5, lines 20-21 of Gray, "36" represents the inner leg portion 36, and "46" represents a rear edge 46 of the outer leg portion 37. Contrary to the Examiner's assertion, "36" and "46" are not slits, and they are not septa. Moreover, there is no suggestion in Gray of any part of the splint 10B being "frangible" or breakable, as recited in Applicant's claims 17 and 25. Gray does not teach or suggest an individual shell member including a longitudinal slit, as is recited in Applicant's claims 14-18, 20-23 and 25.

Applicant's claim 29 recites a walking brace for the lower leg of a patient, said walking brace comprising a leg portion adapted to fit substantially around the lower leg of a patient, and a rigid sole portion adapted to fit beneath the foot of a patient, said leg portion comprising a rigid shell integral with said sole portion, and at least one adjustable air cell having a means for communication between the interior of said air cell and the atmosphere, wherein said rigid shell comprises at least one protruding region for receiving said air cell communication means, said region constructed such that said communication means is directed toward a front side of said walking brace.

The Action states that "the rigid shell 17 (figure 1) of Pick has at least one protruding region capable of receiving a communication means." However, Applicant cannot discern any "protruding region" in the rigid shell 17 of Figure 1, and no such region is described with respect to Figure 1.

Applicant's claim 30, as amended, recites a walking brace for the lower leg of a patient, the walking brace comprising a leg portion adapted to fit substantially around the lower leg of a patient, a rigid sole portion adapted to fit beneath the foot of a patient, a strap for securing the leg portion about the lower leg of the patient, the strap being removably secured to said leg portion, and a pin member protruding from an outer surface of the leg portion, wherein the strap includes a means releasably engageable with the pin member.

The Action states that Gray teaches a "strap 54 (note figures 9, 11, 13), a pin member (figure 13), ... and ... that strap 54 is capable of being releasably engaging [sic] the pin (figure 13)." However, as shown in Figures 12 and 13 of Gray, the plurality of pins 52 are on the opposite side of the splint 10B from the strap fasteners 54, and the pins 52 do not contact or couple with the strap fasteners 54 in any way. Furthermore, Gray does not teach or suggest any means of engaging the strap fasteners 54 with a pin or a plurality of pins.

The Action states that "criticality has not been established for the recited securing means for the strap," but Applicant reminds the Examiner that rejections under §102(b) require a showing of each and every element of the claim in the cited references. Among other things, the cited references do not teach or suggest the "pin member" or the strap "means releasably engageable with the pin member" recited in Applicant's claims.

Applicant accordingly submits that claims 1, 19, 29 and 30 and their dependent claims are not anticipated by or rendered obvious by the references of record for at least the reasons stated above, and respectfully requests that the rejections be withdrawn.

In view of the above remarks, Applicants believe the pending application is in condition for allowance and respectfully request that the Examiner withdraw the rejections and issue a notice of allowance for the pending claims.

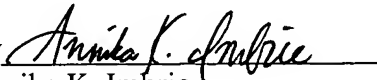
Application No. 10/769,587
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Please charge our Deposit Account No. 18-1945 in the amount of \$510.00 covering the fees set forth in 37 CFR 1.17(a)(3). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 18-1945, under Order No. ACIZ-P01-029, from which the undersigned is authorized to draw.

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Respectfully submitted,

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